

REMARKS

Upon entry of the present Amendment, claims 1-42 and 44-46 are pending and are currently under examination. The Specification, Abstract and claim 1 have been amended as discussed in more detail below. No new matter has been added. Accordingly, Applicants request entry of the present Amendment and reconsideration of the application.

The claims are rejected in various combinations under 35 USC § 112, first paragraph, for written description and enablement, as well as under § 112, second paragraph, for indefiniteness. In addition, the specification and claim 1 have been objected to for minor informalities. Each of these rejections/objections is addressed below in the order set forth in the Office Action.

Applicants acknowledge, with appreciation, the Examiner's indication that claims 8-10 and 36-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

I. *Rejections under 35 U.S.C. § 112, First Paragraph*

Claims 1-3, 6-7, 11-35, 42 and 44-46 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. In the Office Action, the Examiner indicated that the previously filed response indicated that claim 1 had been amended to remove the term "aryl-C₀₋₂alkyl" from the list of R^{4a} substituents, but this appears not to have been done (*see*, page 3 of the Office Action).

To expedite prosecution, claim 1 has now been amended to remove "aryl-C₀₋₂alkyl" from the list of R^{4a} substituents. As such, the rejection is overcome. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 112, first paragraph.

II. *Rejections under 35 USC § 112, Second Paragraph*

Claims 1-7, 11-35, 42 and 44-46 were rejected under 35 U.S.C § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Each of the Examiner's concerns and, in turn, Applicants' responses to those concerns are set forth below.

1. Use of the Term "Heterocycle" in Claim 1

The Examiner alleges that the term "heterocycle" is indefinite, specifically noting the ring size, number and nature of heteroatoms, as well as number and type of rings. The Examiner has indicated that this rejection would be overcome by amending the definition of the NR^2R^3 substituent in a manner similar to the NR^7R^8 substituent, *i.e.*, to replace the term "heterocycle" with the term "heterocycloalkyl."

To expedite prosecution, Applicants have amended claim 1 to replace the term "heterocycle" with the term "heterocycloalkyl." Support for the term "heterocycloalkyl" is found in paragraphs 24 and 25 of the specification (*see*, page 6, line 22 through page 7, line 14). As such, this rejection is overcome. Accordingly, Applicants respectfully request the Examiner to withdraw this aspect of the rejection under 35 U.S.C. § 112, second paragraph.

2. Use of the Term "Alkyl" in Claim 1

The Examiner alleges that the use of the term "alkyl" is indefinite, noting that the definition of "alkyl" in the specification is confusing. The Examiner has indicated that this rejection would be overcome by amending the definition of "alkyl" provided in paragraph 21 of the specification to refer to "hydrocarbon" as "saturated hydrocarbon" and to remove cycloalkyl and alkyls substituted by a cycle listed in the alkyl examples.

To expedite prosecution, Applicants have amended the definition of "alkyl" in accordance with the Examiner's suggestion. In particular, Applicants have amended the definition of "alkyl" to refer to "saturated hydrocarbon." Support for the term "saturated" is found in paragraph 21 as originally filed. In addition, Applicants have removed the terms

“cycloalkyl,” “cyclohexylmethyl” and “cyclopropylmethyl.” These amendments to the definition of “alkyl” obviate the Examiner’s concerns. Accordingly, Applicants urge the Examiner to withdraw this aspect of the rejection under 35 U.S.C. § 112, second paragraph.

3. *The New Paragraph Added after Paragraph 21*

The Examiner alleges that the terms “alkenyl” and “alkynyl” are indefinite as being overbroad. The Examiner has also indicated that the term “cycloalkyl” is a standard term and needs no definition.

To expedite prosecution, Applicants have amended the definition of “alkenyl” and “alkynyl” by adding the phrase “straight or branched.” Support for the amendment is found in paragraph 21 as originally filed. In addition, Applicants have amended paragraph 21 to remove the definition of “cycloalkyl” since, as the Examiner has indicated, “cycloalkyl” is a term of art, the meaning of which is known to those of skill in the art. As such, the amendments to paragraph 21 of the specification obviate the Examiner’s concerns. Accordingly, Applicants urge the Examiner to withdraw this aspect of the rejection under 35 U.S.C. § 112, second paragraph.

4. *Use of the Term Arylalkyl*

The Examiner alleges that the term “arylalkyl” is indefinite as the specification is unclear about which carbon can be replaced and what element or functional group can replace the carbon atom.

To expedite prosecution, Applicants have amended the definition of “arylalkyl” by adding the phrase “with the proviso that the carbon atom is not a radical.” Support for this amendment is found in paragraphs 21, 22, 24, 28 and 29 (*see*, page 5, line 31; page 6, lines 2-3, 14 and 24; page 7, line 1; and page 8, lines 3 and 10); the eighth R⁴ choice in paragraph 56; and the third R⁴ choice in paragraph 63. In addition, Applicants have removed the phrase “for example.” As such, the amendments to the definition of “arylalkyl” obviate the Examiner’s concerns. Accordingly, Applicants urge the Examiner to withdraw this aspect of the rejection under 35 U.S.C. § 112, second paragraph.

III. Objections to the Specification

1. Abstract

The Abstract was objected to as having commas in the substituted amines. In response, Applicants have removed the commas from the substituted amines and have attached a clean copy of the Abstract with this response. Accordingly, Applicants urge the Examiner to withdraw the objection to the Abstract.

2. Paragraph 0050

Applicants have amended the specification, in accordance with the Examiner's suggestion, so that paragraph 0050 is numbered 0050 instead of 0001. This amendment obviates the Examiner's concern.

IV. Objection to Claim 1

Claim 1 was objected to as allegedly being of wrong form. The Examiner requested a clean copy of claim 1.

In accordance with the Examiner's request, Applicants attached a clean copy of claim 1 with this response. Accordingly, Applicants respectfully request the Examiner to withdraw the objection to claim 1.

Appl. No. 10/687,220
Amdt. dated October 26, 2006
Reply to Office Action of May 26, 2006

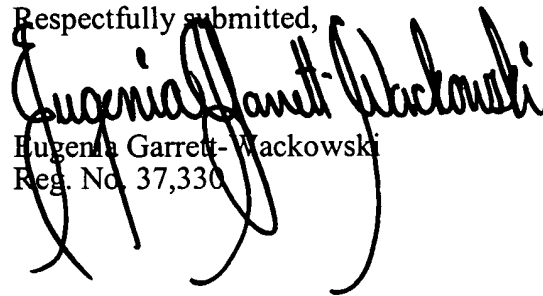
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at 925-472-5000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eugenia Garrett-Wackowski". The signature is stylized with large, flowing loops.

Eugenia Garrett-Wackowski
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Attachments

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